

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **DISTRICT OF NEVADA**

3  
4   KENNETH G. McDONALD,

5                   Plaintiff

6   v.

7   T. THOMAS, J. BRADLEY, B. GOIGO, J.  
8   EDMERSON, and J. GUILIN,

9                   Defendants

Case No.: 2:19-cv-00678-APG-VCF

**Order Transferring Case to the United  
States District Court for the District of  
Arizona**

10           On April 17, 2019, plaintiff Kenneth G. McDonald filed *ex parte* motions for a temporary  
11 restraining order and a preliminary injunction, claiming that the defendants have violated his First  
12 and Fourteenth Amendment rights to the free exercise of his beliefs as a practicing Wiccan. ECF  
13 Nos. 4, 5.<sup>1</sup> McDonald is an inmate in a facility in Arizona, all of the defendants appear to be  
14 employees of that facility, and all the alleged violations occurred in Arizona. I thus ordered  
15 McDonald to show cause as to how this court has personal jurisdiction over the defendants and is  
16 the proper venue for his suit. ECF No. 5. McDonald responded by providing several facts relating  
17 to his status as a Nevada inmate who was transferred to an Arizona facility and the terms of the  
18 contract between Nevada and CoreCivic, Inc, which apparently owns the facility where he is  
19 housed. ECF No. 6.

20           A plaintiff may bring an action in:

21           (1) a judicial district in which any defendant resides, if all defendants are residents  
22           of the State in which the district is located; (2) a judicial district in which a  
23           substantial part of the events or omissions giving rise to the claim occurred, or a  
             substantial part of property that is the subject of the action is situated; or (3) if there

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<sup>1</sup> McDonald also filed an application for leave to proceed *in forma pauperis*. ECF No. 1.

1 is no district in which an action may otherwise be brought as provided in this  
2 section, any judicial district in which any defendant is subject to the court's  
personal jurisdiction with respect to such action.

3 28 U.S.C. § 1391(b)(1)-(3). The District of Nevada is not the appropriate venue for this action  
4 because the alleged events that are the basis of his claims occurred in Eloy, Arizona; the defendants  
5 all appear to reside in Arizona; and McDonald currently resides in Eloy, Arizona. McDonald is  
6 not a party to the contract between Nevada and CoreCivic so the venue language in that contract  
7 does not apply to him. The case therefore was filed in the wrong district.

8 If a case has been filed in the wrong district or division, the district court in which the case  
9 has been incorrectly filed may "transfer such case to any district or division in which it could have  
10 been brought." 28 U.S.C. § 1406(a). To facilitate McDonald's suit moving forward and to avoid  
11 him having to re-file his case, I direct the Clerk of the Court to transfer this action to the United  
12 States District Court for the District of Arizona. I offer no opinion on the merits of this action or  
13 on the application to proceed *in forma pauperis*.

14 IT IS THEREFORE ORDERED that the Clerk of Court will transfer this case to the United  
15 States District Court for the District of Arizona.

16 DATED this 16th day of May, 2019.

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20 ANDREW P. GORDON  
21 UNITED STATES DISTRICT JUDGE  
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